

This version of the code is dated April 6, 2022 and reflects the Planning Commission recommendation with some additional edits. Changes recommended by the Planning Commission have been incorporated into this version. Additional edits made since the Planning Commission's recommendation are shown in track changes. Areas of the code that are highlighted in grey indicated sections that are clearly not applicable outside the city limits, inside the Urban Growth Boundary (UGB).

## **5.9-100 Discretionary Uses**

### **Subsections:**

<b>5.9-105</b>	<b>Purpose</b>
<b>5.9-115</b>	<b>Review</b>
<b>5.9-120</b>	<b>Criteria</b>
<b>5.9-125</b>	<b>Conditions</b>

#### **5.9-105 Purpose**

There are certain uses which, due to the nature of their impact on nearby uses and public facilities, require discretionary review through a Type 3 procedure. These impacts include, but are not limited to, the size of the area required for the full development of a proposed use, the nature of the traffic problems incidental to operation of a use, and the effect the use may have on any nearby existing uses. To mitigate these and other possible impacts, conditions may be applied to address potential adverse effects associated with the proposed use. This Section provides standards and procedures under which a Discretionary Use may be permitted, expanded, or altered.

#### **5.9-115 Review**

- A.** New Discretionary Uses are reviewed under Type 3 procedure concurrently with or prior to a Site Plan or Minimum Development Standards application, as applicable. No Site Plan or Minimum Development Standards application may be approved or conditionally approved for a use requiring Discretionary Use Approval prior to approval of the Discretionary Use application.
- B.** Expansions, alterations, and modifications are reviewed under:
1. Type 1 or Type 2 Site Plan Modification or Minimum Development Standards procedures, as applicable, if the request does not alter any condition of approval or site development requirement of the original Discretionary Use approval; or
  2. Type 3 Discretionary review, if the expansion, alteration, or modification does not comply with a condition of approval or site development requirement of the Discretionary Use approval, or when the Director determines that the expansion, alteration, or modification may adversely impact adjoining land uses.

#### **5.9-120 Criteria**

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A Discretionary Use may be approved only if the Approval Authority finds that the proposal conforms with the Site Plan Review approval criteria specified in Section 5.17.125, where applicable, and the following approval criteria:

- A.** The proposed use conforms with applicable:
  - 1. Provisions of the Metro Plan;
  - 2. Refinement plans;
  - 3. Plan District standards;
  - 4. Conceptual Development Plans or
  - 5. Specific Development Standards in this Code;
- B.** The site under consideration is suitable for the proposed use, considering:
  - 1. The location, size, design and operating characteristics of the use (operating characteristics include but are not limited to parking, traffic, noise, vibration, emissions, light, glare, odor, dust, visibility, safety, and aesthetic considerations, where applicable);
  - 2. Adequate and safe circulation exists for vehicular access to and from the proposed site, and on-site circulation and emergency response as well as pedestrian, bicycle and transit circulation;
  - 3. The natural and physical features of the site, including but not limited to, riparian areas, regulated wetlands, natural stormwater management/drainage areas and wooded areas shall be adequately considered in the project design; and
  - 4. Adequate public facilities and services are available, including but not limited to, utilities, streets, storm drainage facilities, sanitary sewer and other public infrastructure.
- C.** Any adverse effects of the proposed use on adjacent properties and on the public can be mitigated through the:
  - 1. Application of other Code standards (including, but not limited to: buffering from less intensive uses and increased setbacks);
  - 2. Site Plan Review approval conditions, where applicable;

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3. Other approval conditions that may be required by the Approval Authority; and/or
4. A proposal by the applicant that meets or exceeds the cited Code standards and/or approval conditions.

<b>5.9-125</b>	<b>Conditions</b>
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The Approval Authority may attach conditions as may be reasonably necessary in order to allow the Discretionary Use approval to be granted.